

35 U.S.C. 121:

The inventions stated are:

- I. Claims 1-22, drawn to an apparatus for testing functionality, evaluating performance and measuring capacitance of a photo-conversion device of an array of active pixel sensors, classified in class 250, subclass 208.1.
- II. Claim 23, drawn to a method, classified in class 250, subclass 214R.
- III. Claim 24, drawn to a method, classified in class 250, subclass 214R.
- IV. Claim 25, drawn to a method, classified in class 250, subclass 214R.
- V. Claims 26, drawn to a method, classified in class 250, subclass 208.1.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group II - Claim 23, drawn to a process classified in Class 250, subclass 214R. This election is made with traverse of the requirement under 37 C.F.R. 1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction in the Office Action.

The Examiner gives the reasons for the distinctness between Inventions I and II as (I) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). However, upon reading the process Claims

against the apparatus Claims one can readily see that the process Claims are directed to a method of "verifying operation of a group of at least one active pixel sensor within an array", and that the apparatus claims are directed to "an apparatus for testing functionality, evaluating performance and measuring capacitance of a photo-conversion device of at least one active pixel sensor of an array", and that it is necessary to obtain claims in both the process and apparatus claim language. The process claims necessarily use the apparatus and vice versa. The field of search must necessarily cover both the process class/subclass 250/214R and apparatus class/subclass 250/208.1, in addition to other related classes and subclasses, to provide a complete and adequate search. The fields of search for Groups I and II are clearly and necessarily co-extensive. The Examiner's suggestion that "in this case, the apparatus of Invention I as claimed does not have to be operated in the manner illustrated by the method of invention II and can be used to practice another and materially different process as shown by Inventions III, IV or V" is speculative and has nothing to do with the Claims as presented in this patent application.

The Examiner gives the reasons for the distinctness between Inventions I and III as (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). However, upon reading the process Claims against the apparatus Claims one can readily see that the process Claims are directed to a method of "verifying operation of a group of at least one active pixel sensor within an array", and that the apparatus claims are directed to "an apparatus for testing functionality, evaluating performance and measuring capacitance of a photo-conversion device of at

least one active pixel sensor of an array", and that it is necessary to obtain claims in both the process and apparatus claim language. The process claims necessarily use the apparatus and vice versa. The field of search must necessarily cover both the process class/subclass 250/214R and apparatus class/subclass 250/208.1, in addition to other related classes and subclasses, to provide a complete and adequate search. The fields of search for Groups I and III are clearly and necessarily co-extensive. The Examiner's suggestion that "in this case, the apparatus of Invention I as claimed does not have to be operated in the manner illustrated by the method of invention III and can be used to practice another and materially different process as shown by Inventions II, IV or V" is speculative and has nothing to do with the Claims as presented in this patent application.

The Examiner gives the reasons for the distinctness between Inventions I and IV as (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). However, upon reading the process Claims against the apparatus Claims one can readily see that the process Claims are directed to a method of "verifying operation of a group of at least one active pixel sensor within an array", and that the apparatus claims are directed to "an apparatus for testing functionality, evaluating performance and measuring capacitance of a photo-conversion device of at least one active pixel sensor of an array", and that it is necessary to obtain claims in both the process and apparatus claim language. The process claims necessarily use the apparatus and vice versa. The field of search must necessarily cover both the process class/subclass 250/214R and apparatus class/subclass 250/208.1, in addition to other

related classes and subclasses, to provide a complete and adequate search. The fields of search for Groups I and IV are clearly and necessarily co-extensive. The Examiner's suggestion that "in this case, the apparatus of Invention I as claimed does not have to be operated in the manner illustrated by the method of invention IV and can be used to practice another and materially different process as shown by Inventions II, III or V" is speculative and has nothing to do with the Claims as presented in this patent application.

The Examiner gives the reasons for the distinctness between Inventions I and V as (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). However, upon reading the process Claims against the apparatus Claims one can readily see that the process Claims are directed to a method of "verifying operation of a group of at least one active pixel sensor within an array", and that the apparatus claims are directed to "an apparatus for testing functionality, evaluating performance and measuring capacitance of a photo-conversion device of at least one active pixel sensor of an array", and that it is necessary to obtain claims in both the process and apparatus claim language. The process claims necessarily use the apparatus and vice versa. The field of search must necessarily cover both the process class/subclass 250/208.1 and apparatus class/subclass 250/208.1, in addition to other related classes and subclasses, to provide a complete and adequate search. The fields of search for Groups I and V are clearly and necessarily co-extensive. The Examiner's suggestion that "in this case, the apparatus of Invention I as claimed does not have to be operated in the manner illustrated by the method of invention V and can be used to

practice another and materially different process as shown by Inventions II, III or IV" is speculative and has nothing to do with the Claims as presented in this patent application.

The Examiner states that currently claim 26 is generic.

Further, it is respectfully suggested that these reasons are insufficient to place the cost of additional patent applications upon the applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement, and allowance of the present Patent Application, is respectfully requested.

It is requested that should there be any problems with this response, please call the undersigned Attorney at (845) 452-5863.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'SBA', written over a horizontal line.

Stephen B. Ackerman, Reg. No, 37,761